

## ACCOUNT.

1. The action of account will not lie for a legatee against an executor, or the executor of such executor. *Anonymous*, 226
  2. When to a bill filed, stating errors in an account settled four or five years ago, defendant pleaded specially, denying each error and also all fraud, if the Plaintiff does not take issue, and prove the error or fraud, the court will not disturb the account. *Blackledge v. Simpson*, 259
  3. An account taken by the Master, in the absence of one of the parties and without his having had notice of the time when it would be taken, shall be set aside. *Smith et al v. Estis*, 348
  4. When a report is regularly taken but the items of the account are improperly allowed or disallowed by the Master, exceptions filed to the report are proper: but if the report is irregularly taken, then the objection goes to the whole report, and may be made and supported by affidavits on motion. *Id.*, 348
- Vide *Administrators & Executors*, 5. *Limitations Statute of*, 5. *Payment plea of*.

## ACTS OF THE ASSEMBLY.

Vide *Evidence*, 12, 14.

## AFFIDAVIT.

1. An indictment upon an affidavit not signed, is good. *State v. Ransom*, 1
2. An affidavit of an agent, not a party in the suit, cannot be annexed to an answer to dissolve an injunction: but an order may be made to have the fact, which the affidavit was intended to show, tried by a jury at the next term. *Christmas et al v. Campbell et al.*, 123

## AGENT.

Vide *Affidavit*, 2. *Evidence*, 16. *Partnership*, 2.

## ALIEN.

Plaintiff sued on a bond, and the plea, which was founded on the 101st section of the act of 1777 ch 2, stated in substance, that the Plaintiff had removed from the State to avoid assisting in the war of the Revolution; that he had attached himself to the enemy &c. *Held*, that if Plaintiff was a citizen of

this country, the 101st section before referred to, is repealed as to him, by several acts of the State Legislature; and if he was not a citizen but a British subject, then by the 4th article of the treaty of Peace, he is considered as an alien friend, and entitled to sue in our courts. *Cruden's ex'rs. v. Neale*, 338

Vide *Abatement*, 4.

## ALIMONY.

1. In a bill by a wife for alimony, it is most proper that the husband be held to bail at first; but if that has not been done, upon proper affidavits by the wife, the husband's property may be sequestered until he gives security for the performance of the decree. *Anonymous*, 347
2. In a bill for alimony, the court will not order a sequestration upon the ground that the defendant is wasting his property. *Spiller v. Spiller*, 482

## AMENDMENT.

1. Plea in abatement that defendant is sued as executor instead of administrator: motion to amend under the act of 1790 was refused. Nothing can be amended under that act but what the other party might have specially set down as the cause of demurrer. *Cowper v. Edwards adm'r of Webb*, 19
2. A declaration in ejectment served on a tenant in possession, cannot be amended so as to comprise more lands than those already described. *Carter v. Branch*, 135
3. It is a practice among the bar to correct any mistake which the clerk may make in issuing writs. *Adams v. Spenser*, 215
4. Where the demise in an ejectment is about to expire before a trial can be had, the plaintiff will be permitted to amend by extending the term. *Denon dem. of Young v. Erwin*, 323
5. A writ cannot be altered from covenant to debt except by consent of parties: but it is usual among practitioners to permit the amendment, when the mistake was occasioned by the clerk. *Anonymous*, 401
6. An amendment cannot be permitted in an ejectment so as to embrace land not included in the declaration. *Traxler v. Gibson*, 465